

ARTICLE IV. DOGS AND CATS

DIVISION 1. GENERALLY

Secs. 6-76--6-85. Reserved.

DIVISION 2. LICENSE AND VACCINATION

Sec. 6-86. License required.

(a) No person shall own, keep, possess, or have control over any dog or cat within the city unless such person has a current city license for such dog or cat, provided that a city license shall not be required for:

- (1) Dogs and cats under the age of four months which are confined in a place owned or under the possession of the person having ownership, possession or control of the dog or cat within an enclosure which is sufficient to prevent escape therefrom;
- (2) Dogs or cats owned by or in the possession or control of persons who are nonresidents of the city, traveling through the city, or temporarily sojourning therein for a period not exceeding 30 days;
- (3) Dogs or cats brought into the city exclusively for the purpose of entry in any show or exhibition, and which are actually entered in and kept at such show or exhibition;
- (4) Dogs or cats kept for teaching or research purposes by a medical school, veterinary school, licensed hospital or nonprofit university or college providing a degree program;
- (5) Dogs or cats kept for the purposes of medical observation or treatment in veterinary hospitals;
- (6) Dogs or cats kept in the shelter facilities of a humane organization;
- (7) Dogs or cats originally acquired by the person owning, keeping or having possession thereof within the preceding 30 days;
- (8) Dogs or cats owned by or in custody or under control of persons who have been residents of the city for 30 days or less.
- (9) The dog or cat which is owned by a person who does not reside within the city and:
 - a. The animal has a current rabies vaccination; and
 - b. The animal has a current license as issued by the city, county or other applicable licensing authority governing the licensing of animals in the place where the animal is normally kept by its owner.

In any prosecution under this section, the burden shall be upon the defendant to establish as an affirmative defense that one of the exceptions set out in subparagraph (a)(1) through (a)(9), above, is applicable.

(b) No person shall permit any dog or cat on any premises under his ownership, possession or control unless there is a current license issued for such dog or cat; provided, however, it shall be an affirmative defense that the animal is not required to have a license pursuant to any applicable exception listed in subsection (a) above.

(c) A person may obtain a license for a cat or a dog (either sterilized or unsterilized) by completing the appropriate application therefor, paying the prescribed license fee, and furnishing proof of vaccination against rabies. Additionally, for a sterilized pet license, proof must be provided that the animal has been sterilized. Except where the health officer is able to determine by external examination that the animal has been sterilized, the proof shall be provided by certificate of a veterinarian. The license must be renewed each year by providing proof of vaccination against rabies and the payment of the renewal processing fee.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, §§ 2, 3, 8-18-93; Ord. No. 03-393, § 3, 4-23-03; Ord. No. 05-104, § 2, 2-2-05)

Sec. 6-87. Tag to be worn.

(a) It shall be the duty of each person having ownership of a dog or cat for which a license is required to be issued under this article to ensure that the license tag furnished by the licensing authority in conjunction with the issuance of the animal's license is worn by the animal at all times. It is a defense to prosecution hereunder that the dog or cat was confined within a building or other totally enclosed structure under the ownership, possession or control of the person having possession of the animal at the time that the animal was not wearing a license tag.

(b) In any prosecution under this article it shall be presumed that no valid license has been issued for an animal hereunder unless the animal was wearing a valid license tag furnished pursuant to section 6-92 at the time of the alleged offense.

(Ord. No. 85-296, § 6, 3-1-85)

Sec. 6-88. Fees.

The following fees and licensing terms shall be applicable for licenses for dogs and cats:

(1) If the cat or dog has been sterilized, then the owner shall obtain a sterilized pet license for each animal at an annual fee of \$10.00.

(2) If a dog or cat has not been sterilized, the owner shall obtain an unsterilized pet license for the animal at an annual fee of \$50.00.

(3) Senior citizens 60 years of age or older with sterilized dogs or cats shall obtain a sterilized pet license for each such dog or cat for the fee of \$5.00 for the initial license and the regular payment of the renewal processing fee of \$2.00 for each subsequent year.

(4) Persons who use certified assistance, hearing or seeing dogs that have been sterilized may, upon application, obtain a sterilized pet license without paying for any fee therefor except the renewal processing fee of \$2.00 for each subsequent year.

(5) In order to partially defray the city's additional costs associated with late issuance and renewal of licenses, a late processing fee of \$10.00 shall be added to the cost of the dog or cat license fees, if the applicant fails to obtain such license within 30 days of the earlier of the following dates:

- a. The anniversary date of the dog or cat's vaccination against rabies shown on prior dog or cat licenses;
- b. The date the dog or cat is first brought into the city;
- c. The date the dog or cat reaches the age of four months;
- d. The date the applicant first acquired the dog or cat over the age of four months.

For purposes of avoiding the foregoing late processing fee, the date of the application shall be the date that it is actually received by the licensing authority in complete and valid form, including all required certificates; provided, that mailed applications shall be deemed to have been received on the postmark date, if legible.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, § 4, 8-18-93; Ord. No. 03-393, § 4, 4-23-03; Ord. No. 05-104, § 3, 2-2-05; Ord. No. 07-148, § 6, 1-31-07)

Sec. 6-88.1. Special clinics; fees.

(a) From time to time during the months of April through October of each year the health department may conduct special clinics for the vaccination and licensing of dogs and cats in cooperation with any group or association of veterinarians. Such clinics shall be held only at such times and places as are designated by the director of public health. Prior to each such clinic, the director of public health shall furnish a notice thereof to the city secretary who shall cause the same to be posted in a conspicuous place in City Hall.

(b) The following provisions shall be applicable to any special clinic held pursuant to this section:

- (1) The veterinarians shall agree to reduce their charges below the usual and customary fees for vaccinating a dog or cat at the clinic.
- (2) The city's licensing fee for each dog or cat vaccinated and licensed at the clinic shall be one-half the applicable fee set out in section 6-88 of this Code.

(Ord. No. 85-495, § 1, 4-9-85; Ord. No. 85-1383, § 1, 8-13-85)

Sec. 6-89. Duration; transfer.

(a) Each sterilized pet license and unsterilized pet license shall expire upon the first occurrence of any of the following events:

- (1) The expiration of one year from the date of its issuance; or

- (2) The expiration of the current rabies vaccination that was evidenced in the documentation furnished to obtain the license; or
- (3) The death of the animal; or
- (4) The 30th day next following any change of ownership of the animal, unless the license has been amended by that date; or
- (5) The thirtieth day next following any change of the address of the animal's owner unless the license has been amended by that date.

(b) In the event of a change of ownership of the licensed animal or in the event of a change of address of the licensed animal's owner, then the director may cause the license to be amended to reflect such change of owner or address, provided that an application for amendment is received by the director within the thirty-day period next following the date of the change. The director may promulgate forms and administrative rules as required for the orderly administration of license amendments and applications therefor. A copy of the administrative rules shall be maintained for public inspection in the offices of the director and the city secretary. No fee shall be imposed for an amendment.

(c) An expired license is of no force and effect. A new license must be obtained on or before expiration if the animal remains subject to licensing by the city hereunder.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, § 5, 8-18-93; Ord. No. 03-393, § 5, 4-23-03; Ord. No. 05-104, § 4, 2-2-05)

Sec. 6-90. Licensing authority.

Licenses required under this article shall be issued by the director. Additionally, the director may deputize any veterinarian or other person not regularly employed by the city as a deputy licensing authority if such person desires to issue licenses hereunder and demonstrates proof of financial responsibility for the fees to be collected and remitted in a form satisfactory to the director. The director may issue administrative rules and regulations relating to the designation of deputy licensing authorities and their issuance of licenses. A copy thereof shall be maintained for public inspection in the offices of the director and the city secretary. A deputy licensing authority may not impose any fee in addition to that specified in this article for the issuance of a license, but the deputy licensing authority may retain \$1.00 or ten percent of the applicable fee, whichever is more, from the fee for each license issued as compensation for his services in issuing the license.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-91. Rabies vaccination required prior to issuance; certification of neutering.

No animal license shall be issued unless there is exhibited to the licensing authority a certificate by a veterinarian showing that the animal to be licensed has been inoculated with a rabies vaccine approved by the U. S. Department of Agriculture's Veterinary Biologics Division in accordance with the recommendations of the manufacturer, and that such vaccination will not expire prior to the issuance of the license. No animal license shall be issued for an animal as being a spayed or neutered animal unless there is also exhibited to the licensing authority a certificate by a veterinarian or other clear and convincing evidence that the animal has, in fact, been spayed or neutered.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-92. Records.

At the time of issuance of each dog or cat license hereunder, the licensing authority shall furnish a numbered license tag which shall be worn by the animal to evidence the issuance of the city license hereunder. The license tag shall be valid for so long as the animal's license remains valid. The department of public health shall maintain a record of all licenses issued under this article, which shall show the name and address of each person issued a license, the number of the license tag furnished, a description of the dog or cat for which the license is issued, the date of issuance, the fee paid, the place of issuance, the type of rabies vaccine administered and the date of inoculation.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-93. Replacement tags.

In the event of loss or destruction of a license tag, replacement tags shall be available from the director for the payment of a \$2.00 fee, upon satisfactory proof that the dog or cat in question was properly licensed.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, § 6, 8-18-93)

Sec. 6-94. Counterfeiting, destruction of licenses or tags.

The following acts are declared to be unlawful:

- (1) The counterfeiting of dog or cat licenses or tags.
- (2) The willful and malicious destruction of dog or cat license tags.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-95. When rabies vaccination required; evidence.

(a) No person shall own, possess or have control over any dog or cat within the city that is four months of age or older unless the dog or cat has a current rabies vaccination.

(b) In any prosecution under this section, the burden shall be upon the defendant to prove that the animal is not required to be vaccinated because it is less than four months of age or that the animal was in fact vaccinated within the immediate preceding period of one year. A certificate duly signed by a veterinarian attesting that he administered the vaccination required by this section, bearing the date and type of vaccine and the identification of the dog or cat by breed, color, and sex and the vaccination tag number and the name and address of the owner shall be accepted as evidence of such vaccination.

(Code 1968, § 6-55; Ord. No. 85-296, § 7, 2-27-85; Ord. No. 03-393, § 2, 4-23-03)

Sec. 6-96. Duty of veterinarian.

(a) For purposes of this section the following terms shall have the following meanings:

- (1) *Information bulletin* shall mean the informational bulletin which is described in subsection (b).
- (2) *License application form* shall mean the form prescribed by the city for a dog or cat license application.
- (3) *Vaccination tag* shall mean and include any tag, disk or other item designed or intended to be attached to a dog or cat as evidence that the animal has received a vaccination for rabies.

For purposes of this section a veterinarian shall be deemed to vaccinate an animal whether he personally administers vaccine to the animal or causes or allows the vaccine to be administered under his supervision or his control.

(b) The director shall have information bulletins and license application forms printed. The information bulletins shall contain such information concerning the ordinances regulating dogs and cats as the director finds will aid in enforcement of the city's requirements for licensing animals. The director shall make copies of the information bulletin and the license application form available for distribution to veterinarians and their employees in quantities sufficient to meet their needs under this section, without charge, at the city's animal control center during the center's regular business hours.

(c) Each time that a veterinarian vaccinates a dog or cat for rabies, the veterinarian is encouraged to furnish a copy of the information bulletin to the person presenting the animal for vaccination.

(d) It shall be the duty of each veterinarian who vaccinates any dog or cat for rabies within the city to either:

- (1) License the animal while acting as a deputy licensing authority pursuant to section 6-90 of this Code at the time of the administration of the vaccination; or
- (2) On or before the seventh day following the administration of the vaccination furnish to the chief of the city's bureau of animal regulation and care a copy of the veterinarian's fully executed vaccination certificate for the animal setting forth:
 - a. A description of the dog or cat including its breed, age, color and sex;
 - b. Whether the animal has been neutered (if known or determinable by the veterinarian);
 - c. The serial number of the vaccination tag furnished;
 - d. The name and the current address of the person owning or keeping the animal; and
 - e. The number of the City of Houston registration tag worn by the animal, if any.

Any information required to be provided under item (2) above, may be furnished by actual delivery to the office of the chief of the city's bureau of animal regulation and care or by mailing the same by United States mail, postage prepaid, properly addressed to the chief of the city's bureau of animal regulation and care. Notices mailed in the aforesaid manner shall be deemed furnished upon their deposit with the United States Postal Service, provided that they are in fact received by the city's bureau of animal regulation and care.

(e) Each veterinarian is encouraged to inform any person who is furnished a vaccination tag by the veterinarian, or any agent or employee of the veterinarian, that such vaccination tag

does not constitute a city license and to provide such information in writing and in a manner that such information is clearly conspicuous to the reader of the writing.

(Ord. No. 85-296, § 7, 3-1-85; Ord. No. 88-689, §§ 1, 2, 4-27-88)

Secs. 6-97--6-100. Reserved.

DIVISION 3. IMPOUNDMENT OF DOGS RUNNING AT LARGE*

***Cross references:** Dangerous dogs, § 6-151 et seq.

Sec. 6-101. Running at large prohibited.

(a) It shall be unlawful for any person owning or having in his possession any dog to allow such dog to be at large without the owner or person in charge thereof having direct physical control over such dog. An owner or person having in his possession a dog may allow the dog to be at large on property that does not provide the animal with access to a sidewalk or street.

(b) It is a defense to prosecution under subsection (a) of this section that the dog was in an off-leash site established under section 32-11 of this Code,

(c) It shall be unlawful for any person owning or having in his possession a dangerous dog, as defined in section 6-151 of this Code, to allow that dog to be at large. A person who violates this subsection shall, upon conviction, be assessed a fine of not less than \$500.00 nor more than \$2,000.00. Each day that any violation of this subsection continues shall constitute and be punishable as a separate offense.

(Code 1968, § 6-56; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 70-2, § 2, 1-6-70; Ord. No. 71-942, § 1, 5-25-71; Ord. No. 85-2217, § 2, 12-12-85; Ord. No. 92-1449, § 6, 11-4-92; Ord. No. 07-148, § 8, 1-31-07; Ord. No. 07-1410, § 5, 12-5-07)

Charter references: Penalties for ordinance violations, Art. II, § 12.

Cross references: Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 6-102. Impoundment generally.

(a) It shall be the duty of the animal control officers to take up and take charge of all dogs found to be running at large in contravention of section 6-101 within the city, and to take such dogs to the animal control center or other suitable place, there to be impounded and detained for a period of three calendar days.

(b) If a dog which has been delivered to the animal control center is wearing a city license tag not more than two years old, a current local veterinarian vaccination tag, an identification tag, or a microchip, the person in charge of the center shall notify the owner of the dog by

telephone or by mail that such dog has been received by the animal control center. The mailing of notice shall be deemed sufficient notice under this section if it is mailed to the owner at the address shown in the city's records for such license if the dog is wearing a city license tag, or to the address shown in the local veterinarian's records if the animal is not wearing a city license tag but is wearing a local veterinarian's tag.

Dogs wearing a city license tag not more than two years old or a current local veterinarian's tag shall be held in designated pens for the owner for six days from the date the owner was notified by telephone or notice was mailed to the owner. On the seventh day following such notice, the animal may be offered for adoption or euthanized at the discretion of the health officer.

(c) The health officer is authorized to negotiate with other local government agencies for the handling of animals under the provisions of this Code. Any contract which is the subject of such negotiations must be approved and its execution authorized by city council as in other contracts entered into by the city.

(Code 1968, § 6-57; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 70-2, § 3, 1-6-70; Ord. No. 78-2552, § 3, 12-19-78; Ord. No. 07-148, §§ 9, 10, 1-31-07)

Note: Formerly, § 6-111

Secs. 6-103--6-110. Reserved.

DIVISION 4. BREEDING AND SELLING*

***Editor's note:** Ord. No. 2007-148, § 11, adopted January 31, 2007, amended Ch. 6, Div. 3 in its entirety to read as herein set out. Formerly, said division was entitled Impoundment generally.

Sec. 6-111. Permit required.

It shall be unlawful for any person to operate as a commercial breeder without a valid breeder's permit.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-112. Application for permit.

(a) A person who wishes to operate as a commercial breeder may apply to the director for a breeder's permit. An application for a breeder's permit shall include:

- (1) The name, address, and telephone number of the applicant;
- (2) The name, address, and telephone number of the location where the breeding will be conducted;
- (3) A description of the types of animals to be bred; and

(4) Any other information deemed necessary by the director.

(b) The director shall issue the breeder's permit if the applicant meets the qualifications to obtain such permit. A breeder's permit shall be denied if the applicant fails to:

- (1) Complete the application for a breeders permit;
- (2) Properly restrain the dogs and cats in his care and custody;
- (3) Adequately care for and protect the dogs and cats in his care and custody;
- (4) Meet all requirements specified on the commercial breeder permit; or
- (5) Pay all required fees pertaining to the breeder's permit.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-113. Grounds for revocation.

A breeder's permit shall be revoked if the permit holder fails to comply with the provisions set forth in subsection (b) of section 6-112 of this Code.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-114. Fees.

The annual fee for a breeder's permit shall be \$100.00. A permit shall expire one year from the date of issuance and must be renewed prior to its expiration. Failure to timely renew a permit will result in the assessment of a late fee of \$25.00 against the permit holder.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-115. Notice of denial or revocation.

If the director denies an application or a request for renewal, or revokes an existing permit, he shall provide notice of the denial or revocation to the applicant or permit holder in writing not later than the 10th business day after the determination to deny an application or renewal or to revoke a permit. The notice of denial or revocation shall be sent to the permit holder or applicant by certified mail, return receipt requested, addressed to the permit holder or applicant.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-116. Appeal.

A person may appeal the denial or revocation of a permit by delivering a written request for an appeal to the director not more than 10 days after the first date of mailing written notice of denial or revocation.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-117. Hearing.

(a) The director shall cause written notice to be given to the applicant or permit holder that a hearing on his appeal will be conducted. Such notice shall include the following:

(1) The place where the hearing will be conducted; and

(2) The date and time of the hearing, which shall be not later than the tenth day after the date the notice was sent to the applicant or permittee; provided that the hearing officer may continue the hearing upon the written request of the licensee.

(b) All hearings shall be held by a hearing officer appointed by the director of the health and human services department, who shall not designate any person to perform the duties of hearing officer under this section who has prior knowledge of the circumstances regarding the denial or revocation of the permit. The hearing officer, may, prior to the hearing, receive a copy of the notice given to the applicant or permit holder.

(c) An assistant city attorney may be present at the hearing to advise the hearing officer as to procedural matters; however, the attorney shall not participate in any determination of the facts.

(d) All hearings shall be conducted under rules consistent with the informal nature of the proceedings; provided, however, the following rules shall apply to all hearings:

(1) All parties shall have the right to representation by an attorney licensed to practice in Texas though an attorney is not required.

(2) Each party may present witnesses in his own behalf.

(3) Each party has the right to cross examine all witnesses.

(4) Only evidence presented before the hearing officer at the hearing shall be considered in rendering the decision.

(e) The hearing officer may affirm or reverse a permit denial or a permit revocation. The decision of the hearing officer shall be final and shall be delivered in writing to the applicant or permit holder in the same manner as a notice under section 6-115 of this Code.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-118. Roadside and flea market sales.

(a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for a commercial purpose a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(b) This section does not apply to:

(1) An agent of a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets;

(2) Reserved.

(3) An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; or

(4) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-119. Penalty.

A violation of this division shall constitute a Class C misdemeanor.

(Ord. No. 07-148, § 11, 1-31-07)

Sec. 6-120. Reserved.

DIVISION 5. KENNELS

Sec. 6-121. Kennel license--Required; fee; exception.

(a) Any person in the city conducting, managing or maintaining a dog kennel shall obtain a license to do so from the department and pay a license tax of \$50.00 per year or fraction thereof, regardless of the number of dogs kept.

(b) Such license tax shall be for the calendar year or any part thereof during which such dog kennel shall be maintained, and shall be due and payable in advance on or before January first of each year.

(c) The fee imposed under subsection (a) above shall not be applicable to a kennel which is operated by a humane organization as a shelter facility, provided that the humane organization demonstrates to the licensing authority that the facility is devoted exclusively to the care and custody of sick, injured, lost, abandoned or strayed animals and that the humane organization provides veterinary services for the care of the animals kept therein under the supervision of a veterinarian who is employed or retained by the humane organization. The foregoing fee exemption shall not be construed to exempt the humane organization from maintaining a valid license for any kennel which it may operate or from compliance with any applicable ordinance governing the operation or location of a kennel facility.

(Code 1968, § 6-67; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 82-1109, § 6, 7-13-82; Ord. No. 85-296, § 14, 2-27-85)

Sec. 6-122. Same--Inspection of premises before issuance.

It shall be required that a sanitary inspection of the premises be made by the veterinary services division of the department before a kennel license required by this division is issued.

(Code 1968, § 6-68; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 71-942, § 1, 5-25-71)

Sec. 6-123. Same--Issuance and display of certificate.

A certificate shall be issued by the department to the person paying for a dog kennel license, which certificate shall contain the data specified in section 6-124 and which certificate shall be displayed at all times in a prominent place in the kennel.

(Code 1968, § 6-69; Ord. No. 69-985, § 2, 7-2-69)

Sec. 6-124. Same--Records to be kept.

The department shall keep a permanent record of all dog kennel licenses issued under the terms of this chapter, which record shall show the name and address of all persons being issued a kennel license, the name and address of the kennel, the number of the kennel license, the date issued and the amount paid therefor.

(Code 1968, § 6-70; Ord. No. 69-985, § 2, 7-2-69)

Sec. 6-125. Same--Suspension, revocation.

(a) *Grounds for suspension.* The director of the health department, or deputy director, may suspend any kennel license if any of the following conditions exist at the kennel:

- (1) Animals at the kennel are being deprived of necessary food, care or shelter;
- (2) Animals at the kennel are being cruelly confined or are otherwise being cruelly treated; or
- (3) Unsanitary conditions exist at the kennel to such an extent that those conditions create a possible medium of the transmission of disease to the animals kept there or to human beings.

Such a suspension is effective upon service of notice as set out in section 6-125(b). Whenever a kennel license is suspended no animal shall be accepted or placed in the kennel and all animals at the kennel on the date the license is suspended shall be removed therefrom as soon as possible, but in no event shall any animal remain in the kennel more than ten days after the date the license was suspended unless it has been reinstated prior to that time.

(b) *Written notice of suspension.* Whenever a license is suspended, written notice shall be given to the licensee, the person in charge of the kennel, or any employee or agent of the licensee. Such notice shall set forth:

- (1) The specific conditions existing at the kennel which are grounds for suspension of the license pursuant to subsection (a) above;
- (2) That a hearing will be held before the director of the health department or his designate;
- (3) The date, time and place of such hearing; and
- (4) That the licensee may appear in person and/or be represented by counsel and may present testimony and cross-examine all witnesses.

Such hearing shall be held not later than seven days after the date the license is suspended.

(c) *Conduct of hearing.* All hearings shall be held by a hearing officer designated by the director of the health department; the said director shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection or inspections of such kennels, or has prior knowledge of the allegations or circumstances discovered in such inspection or inspections, except that such person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the licensee or person in charge, and may have acted as hearing officer in any prior hearings concerning a suspension of such kennel license.

All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to such hearing:

- (1) All parties shall have the right to representation by a licensed attorney though an attorney is not required;
- (2) Each party may present witnesses in his own behalf;
- (3) Each party has the right to cross-examine all witnesses; and
- (4) Only evidence presented before the hearing officer at such hearing may be considered in rendering the order.

If the licensee fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that conditions exist at the kennel which are grounds for suspension of the license pursuant to subsection (a) above.

(d) *Findings of hearing officer.* If the hearing officer finds conditions which were stated in the notice for grounds for suspension of the license pursuant to subsection (b) above in fact do exist at the kennel, the hearing officer shall make written findings of fact and shall order the license suspended. Provided, however, if the hearing officer finds that the needs of the animals and of public interest will be adequately protected by a warning, he may reinstate the license.

If the hearing officer finds that on the date of the hearing no conditions exist at the kennel which were set out in the notice as grounds for suspension of the license, he shall order such license reinstated. However, reinstatement of such license shall not preclude the city from seeking revocation of the license as set out below.

A copy of the findings and order of the hearing officer shall be served on the licensee, or if the address of the licensee is unknown or the notice has been sent certified mail, return receipt requested and has been returned undelivered, such notice shall be served on the person in charge of the kennel or on any employee or agent of the licensee.

(e) *Correction of conditions; inspection; reinstatement of license.* Whenever the reason for a suspension no longer exists, the licensee or person in charge of the kennel shall notify the veterinary division of the health department that the conditions under which the license was suspended have been corrected and that an inspection is requested. Such inspection shall be conducted as soon as possible after receiving the request and in no event shall be later than three regular working days after the receipt of the request for an inspection. If such inspection shows that the conditions were in fact corrected, the license shall be reinstated unless the city has given notice that it is seeking revocation of the license.

(f) *Conditions for revocation.* A license to operate a kennel may be revoked if:

- (1) Animals at the kennel are being deprived of necessary food, care or shelter;
- (2) Animals at the kennel are being cruelly treated;

(3) Unsanitary conditions exist at the kennel to such an extent that those conditions create a possible medium for the transmission of the disease to the animals kept at the kennel or to human beings;

(4) Conditions stated in subsection (f)(2) and/or (f)(3) above have existed on two or more occasions at the kennel after the kennel has been warned of such conditions by officials of the health department;

(5) There have been two or more suspensions of the kennel license and conditions which were grounds for such suspensions did in fact exist at the time of the suspension;

(6) The licensee is shown to have committed any offense involving cruelty to animals;

(7) The licensee has knowingly employed any person at the kennel or allowed any person to work at the kennel who has been convicted of any offense involving cruelty to animals.

(g) *Written notice of grounds for revocation.* Prior to revocation, written notice shall be given to the licensee or person in charge. Such notice shall set forth:

(1) The grounds upon which the city will seek revocation of the license;

(2) The specific conditions upon which the city will rely in seeking revocation of the license;

(3) That a hearing will be held before the director of the health department or his designated agent;

(4) The date, time and place of such hearing;

(5) That the licensee may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

Such hearings shall be held in accordance with subsection (c) above. If the licensee fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that grounds in fact do exist for the revocation of the license.

(h) *Findings of hearing officer.* After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the license. If the hearing officer finds that grounds do exist for revocation of the license, he shall revoke such; provided, however, if the city sought revocation for reasons under subsection (f)(1), (2) and/or (3) above and no grounds exist for revocation under (f)(4), (5), (6) or (7) above, the hearing officer may deny the request for revocation if he finds that the needs of the animals and the public interest will be adequately protected by a warning.

A copy of the written findings shall be served on the licensee. If the address of the licensee is unknown or if such findings have been sent certified mail, returned receipt requested, and returned undelivered, such findings shall be served on the person in charge of the kennel or on an agent or employee of the licensee.

(i) *Removal of animals upon revocation of license.* If the license is revoked, no animal shall be accepted or placed in the kennel and all animals at the kennel on the date the license is revoked shall be removed therefrom as soon as possible, but in no case no later than ten days after notice that the license has been revoked was served on the licensee, his agent or his employee.

(j) *Service of notices.* Any notice provided for in this section may be served by personal delivery or by certified mail, return receipt requested.

(k) *Nonrefundability of license fee; reinstatement of license.* In the event a license is revoked, the city shall not be liable to the licensee for any refund of any part of the license fee. Reinstatement of a license that has been revoked shall require application and payment of a permit fee as if it were an initial application; provided, however, no license shall be issued to the same licensee if the licensee has been convicted of any offense involving cruelty to animals; no license shall be issued to the same licensee within one year of the date a license has been revoked; and no license shall be issued for the same location unless it is shown that adequate precautions have been taken so that the conditions under which the license was revoked shall not reoccur. If there is a dispute between the inspector and a person applying for a license for a place for which a license was revoked as to whether adequate precautions have been taken so that the conditions under which the license was revoked will not reoccur, the applicant may request a hearing before the hearing officer. Such hearing shall be conducted under the same procedures as a hearing for a revocation of a license, however the burden shall be on the applicant to show that adequate precautions have been taken so that the conditions under which the license was revoked will not reoccur.

(Code 1968, § 6-71; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 81-199, § 1, 2-4-81)

Sec. 6-126. Minimum distance of dog kennel from residence, church, school or hospital.

(a) It shall be unlawful for any person to operate or maintain in the city a dog kennel within 100 feet of any actual residence or habitation for human beings, or within 100 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such dog kennel, such distance of 100 feet to be measured in a straight line from the nearest point of any kennel, pen, enclosure, or other structure in which such dogs are kept to the nearest point of such actual residence or place of human habitation, or church, school or hospital.

(b) Subsection (a) of this section shall not apply to any dog kennel that has received approval from the department to operate at a distance less than 100 feet because the dog kennel has implemented containment measures, such as climate control, flooring, wall and ceiling covering, and flushing systems, in compliance with guidelines promulgated by the health officer to ensure standards of cleanliness and other disease control measures. Current copies of such guidelines shall be maintained in the office of the city secretary and at the health and human services department for public inspection. The approval required under this section shall be in writing and signed by the health officer or his authorized representative.

(c) Notwithstanding the foregoing subsection, in no instance will a dog kennel license be issued, reissued or renewed for the existence of a dog kennel within 30 feet of any actual residence or habitation for human beings, or within 30 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such dog kennel, the measurement to be taken in the same manner as specified above for the 100 feet.

(Code 1968, § 6-72; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 06-970, § 1, 9-20-06)

Secs. 6-127--6-130. Reserved.

DIVISION 6. ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 6-131. Committee created.

- (a) There is hereby created the animal shelter advisory committee ("the committee").
- (b) The animal shelter advisory committee shall perform the state law advisory committee functions contemplated in section 823.005 of the Health and Safety Code by rendering advice and assistance to the director regarding the city's compliance with the requirements of chapter 823 of the Health and Safety Code.

(Ord. No. 91-1735, § 1, 12-11-91; Ord. No. 92-859, § 1, 6-24-92; Ord. No. 02-979, § 1, 10-30-02)

Sec. 6-132. Members; terms; offices.

- (a) The animal shelter advisory committee shall consist of six members, which membership positions shall be designated as positions one through six. The members in positions one through four shall be appointed by the city council in accordance with rule 19 of the city council's rules of procedure as codified in section 2-2 of this Code. The members in positions five and six shall be appointed by the mayor and confirmed by the city council. The following membership criteria shall apply:

- (1) Position one shall be filled by a veterinarian who is licensed as such in Texas.
- (2) Position two shall be filled by a municipal or county official.
- (3) Position three shall be filled by a person whose duties include the daily operation of an 'animal shelter' as that term is defined in section 823.001 of the Health and Safety Code.
- (4) Position four shall be filled by a person who is an officer or employee of an animal welfare organization.
- (5) Positions five and six shall be filled by residents of the city.

- (b) The members of the committee shall serve for two-year terms commencing on the first day of each even-numbered calendar year and ending on the last day of each odd-numbered calendar year, or when their successors are appointed and qualified.

- (c) At the first meeting of each calendar year the members of the committee shall select a chairperson. The member serving in position two of the animal shelter advisory committee shall be the ex officio secretary of the commission.

(Ord. No. 91-1735, § 1, 12-11-91; Ord. No. 92-859, § 1, 6-24-92; Ord. No. 02-979, § 1, 10-30-02; Ord. No. 07-148, § 12, 1-31-07)

Sec. 6-133. Meetings; corporation; quorum.

The committee shall meet from time to time at the call of the chairperson, provided that the committee shall meet not less than three times per calendar year. A majority of the members of the committee shall constitute a quorum for the conduct of business. The director shall arrange for a city conference room to be provided for the conduct of meetings. Members shall not be compensated for service, provided that any member who is a city employee shall continue to receive his regular compensation while serving on the committee.

(Ord. No. 91-1735, § 1, 12-11-91; Ord. No. 92-859, § 1, 6-24-92; Ord. No. 02-979, § 1, 10-30-02)

Secs. 6-134, 6-135. Reserved.